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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,828	01/29/2004	Edward H. Phillips	PPC-10202/08	5600
25006	7590	03/15/2006	EXAMINER	
GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C			TRIEU, THERESA	
PO BOX 7021			ART UNIT	
TROY, MI 48007-7021			PAPER NUMBER	

3748

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/767,828

Applicant(s)

PHILLIPS, EDWARD H.

Examiner

Theresa Trieu

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Jan. 12, 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 10 is/are pending in the application.
- 4a) Of the above claim(s) 6-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 and 10 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 07/27/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office Action is responsive to the applicant's election filed on January 12, 2006.

#### ***Election/Restrictions***

Applicant's election of Figs. 1-4, claims 1-5 and 10 being readable, in the reply filed on January 12, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4 and 10 recite the limitation "the space; the inner rotor; the outer rotor". There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Brundage (Patent Number 3,034,447).

Regarding claims 1, 2, 4, 5 and 10, as shown in Figs. 1-3, Brundage discloses an improved gerotor pump of the type having a gerotor set comprising an inner rotor having N outwardly extending lobes with N approximately circularly shaped grooves therebetween being in mesh with and, in response to rotational motion of a drive shaft (16), rotationally driving an eccentrically disposed outer rotor (12) about an eccentricity offset rotation axis located along a preferred eccentricity axis, the outer rotor being formed with N+1 inwardly extending circularly shaped elements whereby N+1 pumping chambers are formed between the inwardly and outwardly extending circularly shaped elements and lobes and one groove of the inner rotor, a floating ring (17) wherein the outer rotor (12) is located within the floating ring, a housing (H), a gerotor pump cavity comprised within the housing and comprising orthogonal housing guide features for locating the floating ring (17) in a lateral direction, housing ports (62, 58), and fluid commutation ports located on respective inlet and outlet sides (54, 60) of the gerotor pump in a symmetrical manner about a preferred eccentricity axis in either of the floating ring or at least one of first and second sides of the gerotor cavity for selectively conveying fluid between the housing ports and the pumping chambers, wherein the improvement comprises: means (71, 79) for forcibly positioning the outer rotor (12) against the inner rotor (1) along the eccentricity axis at the gerotor set's in-mesh position; guide means (79, a gap between two elements having references 72, 75) for constraining the floating ring (17) in the roll direction; hydrodynamically coupling (71) that force to the space between the floating ring (17) and the outer rotor (12) of the gerotor set, whereby the outer rotor is forcibly positioned against the inner rotor; the means

Art Unit: 3748

for forcibly positioning comprising means (71) for selectively applying the higher pressure valued one of the inlet and outlet fluids against the floating ring (17) at a position juxtaposed to the gerotor set's in-mesh position and the lower pressure valued one of the inlet and outlet fluids against the floating ring at a position juxtaposed to the gerotor set's out-of-mesh position (see Figs. 2 and 3).

***Allowable Subject Matter***

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Prior Art***

The IDS (PTO-1449) filed on July 27, 2004 has been considered. An initialized copy is attached hereto.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of four patents: Brundage (U.S. Patent Number 3,034,448), Stratman (U.S. Patent Number 4,013,388), Dick (U.S. Patent Number 5,711,408) and Child (Publication Number EP 76033), each further discloses a state of the art.

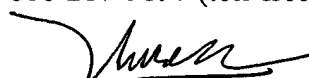
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3748

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT  
March 11, 2006



Theresa Trieu  
Primary Examiner  
Art Unit 3748